IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 12655 of 2000

For Approval and Signature:

Hon'ble MR.JUSTICE B.C.PATEL
and
Hon'ble MR.JUSTICE D.A.MEHTA

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

PARIKH BHANJI VANMALIDAS & SONS

Versus

DY.COMMISSIONER OF INCOME TAX

Appearance:
MR SN SOPARKAR for Petitioner
MR MANISH R BHATT for Respondent

CORAM : MR.JUSTICE B.C.PATEL
and
MR.JUSTICE D.A.MEHTA

Date of decision: 09/04/2001

ORAL JUDGEMENT

(Per : MR.JUSTICE B.C.PATEL)

Rule. Mr. M.R. Bhatt waives service of rule. At the request of learned advocates appearing for the parties, we have heard the matter today for final disposal.

#. It appears that search proceeding was taken under section 132 of the Income Tax Act in the month of September, 1988. Silver ornaments and gun metal were found. There was deficit of silver ornaments to the tune of 84.005 Kgs. Statement under section 132 (4) of the Income Tax Act was recorded of one Shri Pravinbhai Parekh, a partner of the assessee firm who disclosed that in the return of income, amount of Rs. 4,30,000/- will be declared as unaccounted income. In the assessment order, page 18 of the paper book, same is reflected, in the addition by way of disclosure under section 132(4) of the Income Tax Act and ultimately taking into consideration this income, the assessee was assessed under section 143(3) of the Income Tax Act on 16.3.92, against which an appeal was also preferred.

#. On 30th March, 2000, notice under section 148 of the Income Tax Act was issued for reassessment. We have perused the reasons recorded for reassessment. Considering the assessment order and the material placed before us, it is difficult to say that there was any failure on the part of the assessee in the disclosing fully and truly all material facts. In this view of the matter, we allow this application and quash and set aside the notice at Annexure : A. Rule is made absolute accordingly. No order as to costs.

[B.C. PATEL, J.] [D.A. MEHTA, J.]

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